



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,852	10/03/2005	David R. Dalton	SP-1719.2 US (PCT)	6161

20875 7590 11/16/2006

MICHAEL C. POPHAL
EVEREADY BATTERY COMPANY INC
25225 DETROIT ROAD
P O BOX 450777
WESTLAKE, OH 44145

EXAMINER

DZIERZYNSKI, EVAN P

ART UNIT	PAPER NUMBER
----------	--------------

2875

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

BR

Office Action Summary	Application No. 10/551,852	Applicant(s) DALTON ET AL.	
	Examiner Evan Dzierzynski	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 and 19-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jigamian et al. (US 2003/0137834) in view of Talamo (US Pat 6244723).

As for claim 1, Jigamian discloses a housing 232 having at least one aperture (where 88 connects to the housing) therethrough, a light source 66 within the housing, a power source 237 within the housing, electrical switch 88 means associated with the housing for forming an electrical circuit between the light source and the power source, the electrical switch means cooperating with the aperture to allow a user to actuate the switch means between a circuit open and closed condition (paragraph 0075). Jigamian also teaches a cover (top portion of 88), but fails to teach that it is resilient and extends over the electrical switch to provide a waterproof seal for the housing preventing ingress of water through the aperture. Talamo teaches a resilient button cover that provides waterproofing for a lighting device switch (col 4, lines 3-24). It would have been obvious for one of ordinary skill in the art to combine the resilient button cover of Talamo with the device of Jigamian in order to provide a means to waterproof the device to protect it from damaging environments (col 4, ln 5-6).

As for claim 2, Jigamian discloses that the indicator means includes a light source that is used to assist the user to locate the light (paragraph 0045).

As for claim 3, Jigamian discloses that the indicator means includes a light source for indicating a status of the power source (paragraph 0045).

As for claim 4, Jigamian discloses that the indicator means includes a light source for indicating the recharging status of the power source (paragraph 0045).

As for claim 5, Jigamian discloses that the indicator means includes a light source for indicating the discharging status of the power source (paragraph 0045).

As for claim 6, Jigamian discloses that the aperture is provided in a recess in the housing (near 238, Fig 2).

As for claim 7, Jigamian discloses the device as discussed above. Talamo further teaches that the cover cooperates with a rim 42 of a recess (Fig 2) to provide a waterproof seal (col 4, ln 3-23). See the discussion in regard to claim 1 for the motivation for combining the seal of Talamo with the device of Jigamian.

As for claim 8, Jigamian discloses that the electrical switch means is a switch within the housing (Fig 2).

As for claim 9, Jigamian discloses that the switch is actuated by a switch actuator that passes through the aperture, to enable a user to push the actuator to actuate the switch (paragraph 0045).

As for claim 10, Jigamian discloses that the indicator means includes a LED (paragraph 0045).

As for claim 11, Jigamian discloses that the indicator means passes through the housing (Fig 2).

As for claims 12 and 13, Jigamian discloses the device as discussed above but fails to teach it with a pair of indicator means or three indicator means. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include multiple LEDs, since it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

As for claim 14, Jigamian further teaches that the indicator means is under the cover 88, see claim 1 for the motivation for combining with Talamo for the resilient cover.

As for claim 15, it is inherent that at least part of the cover of Jigamian is translucent, since the pushbutton of Jigamian has an LED under it to indicate the status of the flashlight to the user (paragraph 0045).

As for claim 19, Jigamian discloses the device as discussed above wherein the power source includes a rechargeable battery (paragraph 0047).

As for claim 20, Jigamian further discloses that the flashlight includes connection means for connecting the rechargeable battery to an external power supply to recharge the battery (paragraph 0047).

As for claim 21, Jigamian further discloses that the flashlight includes a recharging circuit, to which the indicator means is electrically connected (paragraph 0047).

As for claim 22, Jigamian further discloses that the indicator means is visible through the cover when the indicator means is or is not indicating a status of the power source (paragraph 0045).

As for claim 23, Jigamian discloses the device as discussed above but fails to teach or disclose that the flashlight is a waterproof flashlight. Talamo further teaches that the device is a waterproof flashlight (col 4, lines 1-5). See the discussion in regard to claim 1 for the motivation for combining.

As for claim 24, Jigamian teaches a method of providing an indicator means for a lighting device; the indicator means being adapted to provide a signal to a user of the lighting device (paragraph 0045). Jigamian teaches the switch with a cover, the sealant is interpreted as a cover (paragraph 0045), and that the pushbutton opens and closes a circuit between a power source and a lamp means (paragraph 0047). It is inherent that the switch is translucent, since Jigamian teaches an LED under the button that indicates the status of the flashlight to the user (paragraph 0045). Jigamian teaches a seal, but fails to teach that it is waterproof. Talamo teaches a resilient button cover that provides waterproofing for a lighting device (col 4, lines 3-24). It would have been obvious for one of ordinary skill in the art to combine the resilient button cover of Talamo with the device of Jigamian in order to provide a means to waterproof the device to protect it from damaging environments (col 4, ln 5-6).

As for claim 25, Jigamian further teaches that the indicator means is visible through the cover when the indicator means is providing the signal (paragraph 0045).

Art Unit: 2875

As for claim 26, wherein the indicator means is not visible through the cover when the indicator means is off (paragraph 0002).

As for claim 27, Jigamian further teaches that the lighting device is a flashlight.

As for claim 28, Jigamian discloses the device as discussed above but fails to teach or disclose that the flashlight is a waterproof flashlight. Talamo teaches a device that is a waterproof flashlight. See the discussion in regard to claim 24 for the motivation for combining the waterproofing of Talamo with the device of Jigamian.

As for claim 29, Jigamian further teaches a method wherein the indicator provides an indication of the charging status (paragraph 0045).

As for claim 30, Jigamian further teaches that the location of the lighting device is produced by a bright colored light source that is lighted intermittently (paragraph 0045).

Claims 16, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jigamian and Talamo as applied to claim 1 above, and further in view of Rintz et al. (US Pat 6355885).

As for claim 16, Jigamian discloses the device as discussed above but fails to teach or disclose that at least part of the resilient cover is translucent/transparent. Rintz et al. teaches a resilient cover that is partially transparent. It would have been obvious for one of ordinary skill in the art to combine the transparent, resilient cover of Rintz with the device of Jigamian in order to have an improved cover.

As for claim 17, Jigamian discloses the device as discussed above but fails to teach or disclose that the cover is made of an elastomeric or polymeric material.

Talamo further teaches that the cover is of an elastomeric or polymeric material (col 3,

Art Unit: 2875

In 7-10). See the discussion in regard to claim 1 for the motivation for combining the cover of Talamo with the device of Jigamian.

As for claim 18, Jigamian discloses the device as discussed above, Rintz et al. further teaches that the cover includes silicon. See the discussion in regard to claim 16 for the motivation for combining Rintz with the device of Jigamian.

Claims 31-33, 36, 38, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jigamian et al. (US 2003/0137834).

As for claim 31, a flashlight housing 232 defining a contact aperture (where 88 connects to the housing) opening therethrough, a flashlight electrical contact 312 for electrical connection of the flashlight to a power source, the flashlight electrical contact being disposed at least partly outside the flashlight housing (Fig 1b) and defining a shoulder adjacent the housing (as indicated below); a contact connection means (portion of shoulder protruding from bottom of housing, Fig 1a) for connecting the flashlight electrical contact to the flashlight housing. Jigamian also teaches a securement means (as indicated below) securing the contact connection means in relation to the flashlight housing such that the shoulder maintains the sealing means under compression.

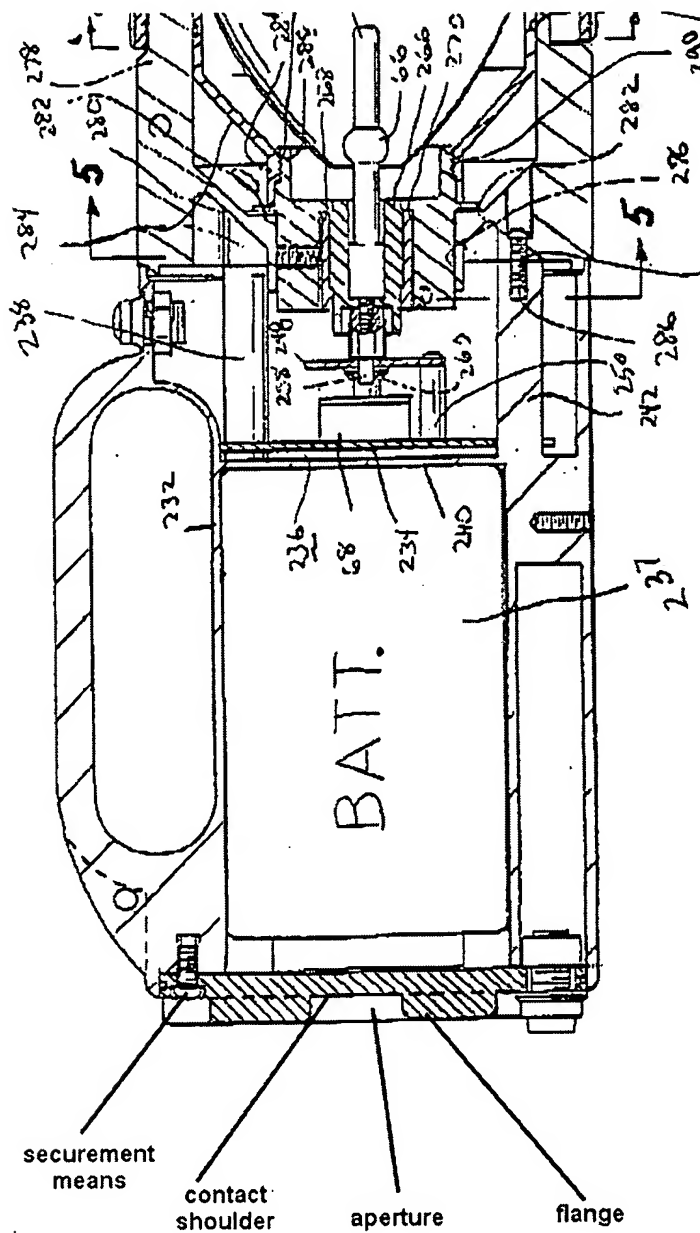
Jigamian teaches a contact connection means and an aperture, but fails to teach that the contact means is extending from the contact through the contact aperture. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the contact means extend through the aperture, since it has been held by the courts that a mere reversal of the essential working parts of a

Art Unit: 2875

device involves only routine skill in the art. *In re Gazda*, 219 F.2d 449, 104 USPQ 400 (CCPA 1955).

Jigamian fails to specifically teach a resilient sealing means sandwiched between the shoulder and the flashlight housing to establish a watertight seal between the shoulder and the housing. However, Jigamian does teach water sealant used to attach other components of the flashlight. It would have been obvious for one of ordinary skill in the art to use the same water sealant used to secure the reflector (paragraph 0055) and use it to secure the electrical contact, in order to further secure the device and protect it from water damage.

Art Unit: 2875



As for claim 32, Jigamian further teaches the use of an elastomeric washer as a watertight gasket (paragraph 0055, p. 10, cl. 38). It would have been obvious to use this gasket for a resilient sealing means.

As for claim 33, Jigamian further shows that the contact connection means includes a shaft portion extending from the flashlight electrical contact (Fig 1b, protruding from base of 232).

As for claim 36, Jigamian fail to specifically teach or disclose that the flashlight electrical contact and the contact connection means are a unitary component. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the contact connection means and the electrical contact means unitary, since it has been held that forming in one piece a structure which has formerly been formed in two, or more pieces, involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 USPQ 164 (1893).

As for claim 38, Jigamian further shows that the shoulder is defined by a flange (protruding portion from 232, Fig 1A).

As for claim 39, Jigamian further teaches that the flashlight housing defines a recess having a recess floor, the flashlight electrical contact being disposed within the recess and projecting from the contact aperture and outwardly from the recess floor.

Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jigamian as applied to claim 31 above, and further in view of Shamlian et al. (US Pat 3888127).

As for claims 34 and 35, Jigamian discloses the device as discussed above, further comprising a securement means disposed within the flashlight housing, but fails to teach or disclose that the securement means is constituted by a deformable portion of a contact connection means, configured to be deformed so as to lock the contact

Art Unit: 2875

connection means and hence the flashlight electrical contact, in place relative to the flashlight. Shamlian et al. teaches an underwater lighting device further comprising a washer 43, with a securement means with a deformable portion 42 of a contact connection means, that is configured to be deformed so as to lock the contact connection means and the flashlight electrical contact in place relative to the lighting device. It would have been obvious for one of ordinary skill in the art to combine the deformable portion and the washer of Shamlian with the device of Jigamian in order to provide an improved securing means that prevents water from entering the device. One would have been motivated to make this combination because O-rings and other deformable securement members are commonly found in underwater devices.

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jigamian in view of Osiecki et al. (US 2003/0039118).

As for claim 37, Jigamian fails to teach that the unitary component is in the form of a rivet. Osiecki et al. teaches a contact rivet that is a unitary component (paragraph 0040). It would have been obvious for one of ordinary skill in the art to combine the contact rivet as a unitary component of Osiecki with the device of Jigamian, since rivets are well known in the art as providing a means of electrical connections in flashlights.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Levine (US 2003/0223227) discloses a flashlight with a plurality of LEDs that are used to indicate the status of the device to the user by using different lighting patterns, such as flashing light, solid light, etc.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evan Dzierzynski whose telephone number is (571)-272-2336. The examiner can normally be reached on Monday through Friday 7:00 am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Renee Luebke can be reached on M-F (571)-272-2009. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Evan Dzierzynski

11/3/2006



RENEE LUEBKE
PRIMARY EXAMINER